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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,550	12/22/1999	OLAF ERIK ALEXANDER ISELE	CM-1519Q	2485

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 09/12/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/446,550

Applicant(s)

ISELE ET AL

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobrin et al. (5,628,737) in view of Tapp (5,169,712).

Dobrin discloses all aspects of the claimed invention with the exception of a particulate filler material imbedded in the polymeric film layer. Dobrin discloses an absorbent article 20, as shown in figure 2, comprising a core region 74, and a chassis region 76 surrounding the core region 74. The article 20 further comprises a laminate 95, as shown in figure 3, which extends into both the core region 74 and the chassis region 76 to form a core backsheet and a chassis backsheet. The laminate 95 comprises a polymeric film layer 26, as described in column 6, lines 42-43, and a fibrous layer 90, as described in column 9, lines 51-52. The laminate 95 is a breathable, unitary layer. The laminate 95 comprises apertures 84 in the chassis region 76, giving the chassis region 76 a higher degree of breathability than the core region 74, and therefore the MVTR value of the core region 74 is lower than that of the chassis region 76.

Tapp discloses a breathable laminate comprising a polymeric film layer and a fibrous layer, as described in column 4, lines 39-42 and 60-61. The polymeric film layer

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has a basis weight of greater than 25 gsm, as disclosed in column 16, lines 29-32, and comprises a polymeric matrix and a particulate filler material, as disclosed in column 6, lines 65-68. The breathability of the laminate is enhanced by the formation of cracks around the particulate filler material, as disclosed in column 13, lines 15-18.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the laminate of Dobrin using the polymeric film layer of Tapp to increase the breathability of the laminate.

With respect to claim 2, Dobrin discloses the polymeric film layer 26 is wider than the fibrous layer 90, as described in column 10, lines 7-9.

With respect to claims 3 and 4, Tapp discloses a MVTR of at least 500 g/24hr/m², as described in column 5, lines 42-43.

With respect to claims 5 and 6, Dobrin discloses all aspects of the claimed invention but remains silent as to how much greater the transmission rate of the chassis region is than the transmission rate of the core region. The chassis region is apertured to increase its breathability, and therefore has a higher transmission rate than the core region.

With respect to claim 7, Tapp discloses the filler material is calcium carbonate, as described in column 6, lines 67-68.

With respect to claim 8, Tapp discloses the polymeric layer has a basis weight of less than 50 gsm, as described in column 16, lines 29-32.

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With respect to claim 9, Tapp discloses the fibrous layer has a basis weight of about 10 gsm, as described in column 17, lines 41-43, which in combination with the polymeric layer, would have a basis weight of less than 70 gsm.

With respect to claim 10, Dobrin discloses the fibrous layer 90 is a non-woven web, as described in column 9, line 52.

With respect to claims 11 and 13, Tapp discloses combining the polymeric layer and the fibrous layer by thermobonding and adhesive bonding, as described in column 23, lines 60-64.

With respect to claim 12, Tapp discloses combining the polymeric layer and the fibrous layer by extrusion, as described in column 20, lines 21-23.

With respect to claim 14, Dobrin discloses a baby diaper, as shown in figure 1.

Response to Arguments

Applicant's arguments filed 11 June 2003 have been fully considered but they are not persuasive.

Dobrin et al. disclose a laminate 95 comprising a polymeric layer 26 comprising a vapour or gas permeable film, as disclosed in column 6, lines 35-42. The laminate 95 further comprises a fibrous layer 90, which is breathable, as disclosed in column 9, lines 51-58. The laminate 95, which comprises both the core backsheet material and the chassis backsheet material, is therefore breathable. Each of the core and chassis backsheet material are breathable, as disclosed by Dobrin et al. Modifying the backsheet material of Dobrin et al. in view of Morman et al., to provide a particulate filler material, would not destroy the breathability of the backsheet material of Dobrin et al.

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With respect to claims 3 and 4, Dobrin teaches, in column 7, line 50 to column 8, line 18, the apertured zone 80 permits the passage of vapors and/or liquids. Dobrin does not disclose the non-apertured region 82 does not permit the passage of vapors (i.e. is breathable). Dobrin discloses in column 6, lines 35-42, the non-apertured region comprises a polymeric layer 26 that permits the passage of vapors without permitting the passage of liquids.

With respect to claims 5 and 6, the core region is breathable, as discussed above.

Applicant's arguments with respect to claims 3, 4, 7, and 12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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September 8, 2003



WEILUN LO

SUPERVISORY PATENT EXAMINER
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